

**2009 DRAFTING REQUEST**

**Assembly Amendment (AA-AB14)**

Received: **02/14/2009**

Received By: **gmalaise**

Wanted: **02/16/2009**

Identical to LRB:

For: **Sondy Pope-Roberts (608) 266-3520**

By/Representing: **Tryg Knutson**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Employ Priv - health and safety**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Pope-Roberts@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Travelling sales crews; violation of unfair trade practices order

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**Instructions:**

See attached--DATCAP technical correction; i.e., violation of order issued under s. 100.20

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

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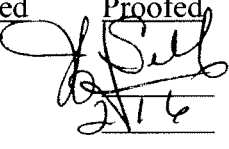
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FE Sent For:

<END>

## Malaise, Gordon

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**From:** Knutson, Tryg  
**Sent:** Friday, February 13, 2009 11:39 AM  
**To:** Malaise, Gordon  
**Cc:** McCarthy, Tom  
**Subject:** FW:  
**Attachments:** 2009 SB 4 recommendations.doc

Gordon-

We need the attached recommendation drafted as a technical amendment to SB 4 and AB 14.

The Assembly Bill is scheduled for a public hearing this Tuesday, Feb. 17 in the Assembly, and Thursday, Feb. 19 in the Senate.

If you have questions and I am unavailable – please feel free to contact Michelle Reinen at DATCP.

Thanks.

Tryg Knutson.

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**From:** Reinen, Michelle J - DATCP [mailto:Michelle.Reinen@Wisconsin.gov]  
**Sent:** Wednesday, February 11, 2009 10:24 AM  
**To:** Knutson, Tryg  
**Subject:** RE:

Sorry Tryg for not getting this to you sooner.

Attached is a memo from our attorney outlining what we think would improve the bill.

If there are questions, let me know or we can cover them tomorrow when we are over there.

Michelle

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g [mailto:Tryg.Knutson@legis.wisconsin.gov]  
February 11, 2009 9:41 AM  
le J - DATCP

Hi Michelle –

Can you share more detailed information with me about the amendment needed...

I jotted some notes down at home when we spoke last week – but I need to better explain to my boss.

Thanks.

Tryg

02/13/2009

Memorandum

Department of Agriculture,  
Trade and Consumer Protection  
Office of Legal Counsel

Date: January 31, 2009

To: Janet Jenkins, Administrator, Division of Trade and Consumer Protection,

From: David J. Ghilardi, Assistant Legal Counsel

Subject: 2009 SB 4 – Disqualifying Offenses

I recommend the definition of “disqualifying offense” in SB 4, as it applies to consumer protection violations, should be changed as follows.

SB 4, page 8, lines 22 and 23:

4. A violation of s. 100.18; or 100.195, or an order issued under s. 100.20, ~~or a rule promulgated under any of those sections,~~ or of a substantially similar federal law or law of another state.

SB 4, page 12, lines 10 and 11:

violation of s. 100.18; or 100.195, or an order issued under s. 100.20, ~~or a rule promulgated under any of those sections,~~ or of a substantially similar federal law or law of another state.

Analysis:

*A violation of s. 100.20 should not be a disqualifying offense.* Under s. 100.20, there is no violation of law until after an order is issued under subs. (2) or (3). SB 4 should follow that paradigm.

*We should reference “orders issued under s. 100.20.”* Under s. 100.20, the department has two types of orders it may issue – a special order or a general order. A special order applies to a specific business. A general order is promulgated as an administrative rule and applies to anyone that meets the scope of the rule. The penalty for violating either order is the same – see Wis. Stat. §§ 100.26(3) and (6). The courts have always understood that an “order issued under s. 100.20” includes any administrative rules promulgated under that section.

*We do not need to reference rules promulgated under s. 100.18 or 100.195.* It is very unlikely that we would ever write rules under Wis. Stat. § 100.18 and 100.195. The former has been around for a very long time and no one has ever found a reason to do so. The latter is equally unlikely to need a rule, especially a rule that would create a violation that would not also be a violation of the statute.



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBa0066/1  
GMM:.....  
Legis

MON 2/16 9:00 AM

(Committee Hearing)

ASSEMBLY AMENDMENT,  
TO 2009 ASSEMBLY BILL 14

bill list ✓

✓

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 8, line 22: delete that line and substitute:
- 3 "4. A violation of s. 100.18 or 100.195, of an order issued under s. 100.20,".
- 4 **2.** Page 8, line 23: delete "of those sections,".
- 5 **3.** Page 10, line 23: delete that line and substitute: "of s. 100.18 or 100.195,
- 6 of an order issued under s. 100.20, or".
- 7 **4.** Page 12, line 10: delete that line and substitute: "violation of s. 100.18 or
- 8 100.195, of an order issued under s. 100.20,".
- 9 **5.** Page 12, line 11: delete "sections,".

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(END)